

AMENDED IN SENATE JULY 23, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1240**

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**Introduced by Assembly Member Davis**

February 27, 2009

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An act to amend Sections ~~81332 and 81373~~ *81361, 81367, 81370, 81372, and 81375* of, to add Section 81523.5 to, and to repeal ~~Section 81371~~ *Sections 81371 and 81373* of, the Education Code, relating to community colleges.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1240, as amended, Davis. Community colleges: leasing of buildings: sale of district property.

~~(1) Existing law allows the governing board of a community college district to enter into an agreement with another entity whereby that entity will construct a building to be used and leased by the district. Existing law requires the agreement to vest title to the building in the district at, or before, the expiration of the lease.~~

Before entering into this type of agreement, existing law requires that the district have a site available upon which the building may be constructed, that the district has complied with provisions of existing law relating to the selection and approval of the site, and has prepared and adopted plans for the building to be constructed on the site. Existing law provides that a district has a site available for the construction of a building if it either owns the site or has an option which allows the district to purchase the site.

~~This bill would delete provisions providing that a site is available for construction of a building if the district has an option on the property.~~

~~(2)~~

(1) Existing law allows the *governing board of a Community College* district to lease temporary-use buildings. Existing law provides that any lease of a temporary-use building that is for more than a total of three years, or is under a lease-purchase contract, is subject to compliance with existing law providing for the construction of school buildings under the supervision of the Department of General Services pursuant to specified standards.

This bill would allow the Los Angeles Community College District to lease a temporary use building *that is 50,000 square-feet or less* for up to a total of 5 years without being subject to compliance with the above provisions of existing law regarding building standards. The bill would provide that this provision would not apply to leases with an effective date or effective renewal date that is after January 1, 2015.

This bill would make a ~~Legislative~~ *legislative* declaration regarding the need for a special statute regarding the Los Angeles Community College District.

~~(3)~~

(2) Existing law allows the governing board of a community college district to sell or lease any real property belonging to the district. Existing law requires the district to call for oral bids before accepting any written proposals to sell or lease district property. Existing law requires the board to accept an oral bid if it exceeds the highest written proposal by 5%.

This bill would repeal the provisions ~~requiring the district to call for relating to oral bids.~~

~~(4) Existing law provides that if the property is sold on a higher oral bid,  $\frac{1}{2}$  of the commission is to be paid to the broker who submitted the highest written proposal, and  $\frac{1}{2}$  of the commission is to be paid to the to the broker who procured the actual purchaser.~~

~~This bill would delete provisions requiring the district to split the commission between the broker procuring the highest written proposal and the broker procuring the actual purchaser in the event of a sale on a higher oral bid. This bill would require the full commission to be paid to the broker procuring the purchaser.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 81332 of the Education Code is amended~~  
2 ~~to read:~~

3     ~~81332. Before the governing board of a community college~~  
4 ~~district enters into a lease or agreement pursuant to this article, it~~  
5 ~~shall have available a site upon which a building to be used by the~~  
6 ~~district may be constructed and shall have complied with the~~  
7 ~~provisions of law relating to the selection and approval of sites;~~  
8 ~~and it shall have prepared and shall have adopted plans and~~  
9 ~~specifications for such building which have been approved pursuant~~  
10 ~~to Article 7 (commencing with Section 81130) of Chapter 1 of~~  
11 ~~Part 49. A district has a site available for the purposes of this~~  
12 ~~section if it owns a site.~~

13     ~~SECTION 1. Section 81361 of the Education Code is amended~~  
14 ~~to read:~~

15     ~~81361. The governing board of any a community college~~  
16 ~~district which that has by majority vote established a standard rate~~  
17 ~~or rates for the lease pursuant to this article of its real property~~  
18 ~~may by majority vote delegate to such an officer or employee as~~  
19 ~~the governing board may designate, the power to enter into leases,~~  
20 ~~for and in behalf of the district, of any real property of the district,~~  
21 ~~with respect to which real property the district has received only~~  
22 ~~one sealed proposal which that conforms with the existing standard~~  
23 ~~rate or rates, from a responsible bidder and no oral bid which would~~  
24 ~~meet the requirements of Section 81371.~~

25     ~~SEC. 2. Section 81367 of the Education Code is amended to~~  
26 ~~read:~~

27     ~~81367. If, in the discretion of the board, it is advisable to offer~~  
28 ~~to pay a commission to a licensed real estate broker who is~~  
29 ~~instrumental in obtaining any proposal, the commission shall be~~  
30 ~~specified in the resolution. No commission shall be paid unless~~  
31 ~~there is contained in or with the sealed proposal or stated in or~~  
32 ~~with the oral bid, which that is finally accepted; the name of the~~  
33 ~~licensed real estate broker to whom it is to be paid, and the amount~~  
34 ~~or rate thereof. Any commission shall, however, be paid only out~~  
35 ~~of money received by the board from the sale or rental of the real~~  
36 ~~property.~~

37     ~~SEC. 3. Section 81370 of the Education Code is amended to~~  
38 ~~read:~~

1     81370. (a) At the time and place fixed in the resolution for the  
2 meeting of the governing body, all sealed proposals ~~which that~~  
3 have been received shall, in public session, be opened, examined,  
4 and declared by the board. Except as provided in subdivision (b),  
5 of the proposals submitted ~~which that~~ conform to all terms and  
6 conditions specified in the resolution of intention to sell or to lease  
7 and ~~which that~~ are made by responsible bidders, the *sealed*  
8 proposal ~~which that~~ is the highest, after deducting therefrom the  
9 commission, if any, to be paid a licensed real estate broker in  
10 connection therewith, shall be finally accepted, unless a higher  
11 oral bid is accepted or the board rejects all of these bids.

12     (b) Notwithstanding subdivision (a), the governing board of any  
13 community college district may apply to the Board of Governors  
14 of the California Community Colleges for a waiver of the  
15 requirement that the governing board accept the highest responsible  
16 bid for the sale or lease of real property. The board of governors  
17 may grant a waiver pursuant to this subdivision if it determines  
18 that the waiver is in the best interests of the community college  
19 district.

20     ~~SEC. 2.~~

21     ~~SEC. 4.~~ Section 81371 of the Education Code is repealed.

22     ~~SEC. 3.~~ Section 81373 of the Education Code is amended to  
23 read:

24     ~~81373. In the event of a sale to a purchaser procured by a~~  
25 ~~licensed real estate broker who is qualified as provided in Section~~  
26 ~~81367, the board shall allow a commission on the full amount for~~  
27 ~~which the sale is confirmed.~~

28     ~~SEC. 5.~~ Section 81372 of the Education Code is amended to  
29 read:

30     81372. (a) The governing board by majority vote may adopt  
31 a rule delegating to an officer or employee of the district the  
32 authority to perform the duties required to be performed by the  
33 governing board under ~~Sections Section 81370 and 81371.~~ If such  
34 a delegation rule is adopted pursuant to this subdivision, the  
35 resolution required in Section 81365 shall specify, in lieu of the  
36 public meeting of the governing board to be held at its regular  
37 place of meeting, the place at which the designated officer or  
38 employee will receive and open sealed proposals to purchase or  
39 lease and will call for oral bids.

40     AH

1 (b) All other provisions of this article not in conflict with the  
2 delegation of this authority are applicable. However, the final  
3 acceptance of a bid, or rejection of all bids, shall be made by the  
4 governing board at a public meeting.

5 *SEC. 6. Section 81373 of the Education Code is repealed.*

6 ~~81373. In the event of a sale on a higher oral bid to a purchaser~~  
7 ~~procured by a licensed real estate broker, other than the broker~~  
8 ~~who submitted the highest written proposal, and who is qualified~~  
9 ~~as provided in Section 81367, the board shall allow a commission~~  
10 ~~on the full amount for which the sale is confirmed. One-half of~~  
11 ~~the commission on the amount of the highest written proposal shall~~  
12 ~~be paid to the broker who submitted it, and the balance of the~~  
13 ~~commission on the purchase price to the broker who procured the~~  
14 ~~purchaser to whom the sale was confirmed.~~

15 *SEC. 7. Section 81375 of the Education Code is amended to*  
16 *read:*

17 81375. The governing body may at the session, if it deems  
18 ~~such action to be~~ *it would be* for the best public interest, reject any  
19 and all bids, ~~either written or oral~~, and withdraw the property from  
20 sale or lease.

21 ~~SEC. 4.~~

22 *SEC. 8. Section 81523.5 is added to the Education Code, to*  
23 *read:*

24 81523.5. (a) Notwithstanding subdivision (d) of Section 81523,  
25 in order to adequately assess long-term site viability, any temporary  
26 use building *that is 50,000 square feet or less* which the Los  
27 Angeles Community College District leases under one, or  
28 successive leases, for a total time of five years or less, and in which  
29 students or faculty are expected to enter, shall be exempt from the  
30 provisions of Article 7 (commencing with Section 81130) and  
31 Article 8 (commencing with Section 81160) of Chapter 1 ~~of this~~  
32 ~~part.~~

33 (b) This section does not apply to a lease with an effective date  
34 or effective renewal date that is on or after January 1, 2015.

35 ~~SEC. 5.~~

36 *SEC. 9. The Legislature finds and declares that due to unique*  
37 *circumstances regarding the Los Angeles Community College*

- 1 District, a general statute cannot be made applicable within the
- 2 meaning of Section 16 of Article IV of the California Constitution.

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